

#### **§ 581.29**

of the lease. The lessee shall pay the amount specified in the lease rental for any royalty free year. The minimum royalty specified in the lease shall apply during any year of reduced royalty.

#### **§ 581.29 Royalty valuation.**

Unless stated otherwise in the leasing notice and subsequently issued lease, product valuation will be in accordance with the regulations in part 1206 of chapter XII. The value used in the computation of royalty shall be determined by the Director of the Office of Natural Resources Revenue.

#### **§ 581.30 Minimum royalty.**

Unless otherwise specified in the leasing notice, each lease issued pursuant to the regulations in this part shall require the payment of a specified minimum annual royalty beginning with the year in which OCS minerals are produced (sold, transferred, used, or otherwise disposed of) from the leasehold except that the annual rentals shall apply during any year that royalty free production is in effect pursuant to § 581.28(b). Minimum royalty payments shall be offset by royalty paid on production during the lease year. Minimum royalty payments are due at the beginning of the lease year and payable by the end of the month following the end of the lease year for which they are due.

#### **§ 581.31 Overriding royalties.**

(a) Subject to the approval of the Secretary, an overriding royalty interest may be created by an assignment pursuant to section 8(e) of the Act. The Secretary may deny approval of an assignment which creates an overriding royalty on a lease whenever that denial is determined to be in the interest of conservation, necessary to prevent premature abandonment of a producing mine, or to make possible the mining of economically marginal or low-grade ore deposits. In any case, the total of applicable overriding royalties may not exceed 2.5 percent or one-half the base royalty due the Federal Government, whichever is less.

(b) No transfer or agreement may be made which creates an overriding royalty interest unless the owner of that

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interest files an agreement in writing that such interest is subject to the limitations provided in § 581.30 of this part, paragraph (a) of this section, and § 581.32 of this part.

#### **§ 581.32 Waiver, suspension, or reduction of rental, minimum royalty, or production royalty.**

(a) The Secretary may waive, suspend, or reduce the rental, minimum royalty, and/or production royalty prescribed in a lease for a specified time period when the Secretary determines that it is in the National interest, it will result in the conservation of natural resources of the OCS, it will promote development, or the mine cannot be successfully operated under existing conditions.

(b) An application for waiver, suspension, or reduction of rental, minimum royalty, or production royalty under paragraph (a) of this section shall be filed in duplicate with the Director. The application shall contain the serial number(s) of the lease(s), the name of the lessee(s) of record, and the operator(s) if applicable. The application shall either:

(1)(i) Show the location and extent of all mining operations and a tabulated statement of the minerals mined and subject to royalty for each of the last 12 months immediately prior to filing the application;

(ii) Contain a detailed statement of expenses and costs of operating the lease, the income from the sale of any lease products, and the amount of all overriding royalties and payments out of production paid to others than the United States; and

(iii) All facts showing whether or not the mine(s) can be successfully operated under the royalty fixed in the lease; or

(2) If no production has occurred from the lease, show that the lease cannot be successfully operated under the rental, royalty, and other conditions specified in the lease.

(c) The applicant for a waiver, suspension, or reduction under this section shall file documentation that the lessee and the royalty holders agree to a reduction of all other royalties from the lease so that the aggregate of all other royalties does not exceed one-